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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 CRAIG WRIGHT,

11 Petitioner,

12 v.

13 UNITED STATES OF AMERICA,

14 Respondent.
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Criminal Case No. 12-cr-4868 DMS
Civil Case No. 16-cv-1586 DMS

**ORDER DENYING MOTION
FOR CERTIFICATE OF
APPEALABILITY**

17 On June 21, 2016, Petitioner Craig Wright filed a Motion to Vacate, Set Aside,
18 or Correct Sentence Under 28 U.S.C. § 2255, challenging his sentence in light of the
19 recent Supreme Court decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015).
20 On March 1, 2017, this Court issued an order denying Petitioner's motion. The
21 Court held voluntary manslaughter, in violation of Cal. Penal Code § 192(a), remains
22 a crime of violence under U.S.S.G. § 4B1.2(a) because Application Note 1 of the
23 commentary to § 4B1.2 expressly states crime of violence includes manslaughter.
24 On March 2, 2017, Petitioner filed a Motion for Certificate of Appealability,
25 contending "reasonable jurist" would find debatable whether *Johnson* entitles
26 Petitioner to relief under § 2255.

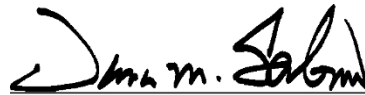
27 A certificate of appealability is authorized "if the applicant has made a
28 substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).

1 “A petitioner satisfies this standard by demonstrating that jurists of reason could
2 disagree with the district court’s resolution of his constitutional claims or that jurists
3 could conclude the issues presented are adequate to deserve encouragement to
4 proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003); *see also Slack v.*
5 *McDaniel*, 529 U.S. 473, 484 (2000).

6 Petitioner has not demonstrated that reasonable jurists could find debatable
7 this Court’s denial of Petitioner’s motion. On March 6, 2017, the United States
8 Supreme Court issued a decision in *Beckles v. United States*, No. 15-8544, 2017 WL
9 855781, at *9 (U.S. Mar. 6, 2017), holding “that the advisory Sentencing Guidelines
10 are not subject to a vagueness challenge under the Due Process Clause and that §
11 4B1.2(a)’s residual clause is not void for vagueness.” Therefore, *Johnson* does not
12 apply to the Career Offender Guidelines, and voluntary manslaughter remains a
13 crime of violence under § 4B1.2. Accordingly, Petitioner’s motion for a certificate
14 of appealability is denied.

15 **IT IS SO ORDERED.**

16 Dated: March 7, 2017



Hon. Dana M. Sabraw
United States District Judge